

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

v.

WILLIAM CURBEAN

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Criminal No. JFM-10-0586

Civil No. – JFM-12-364

MEMORANDUM

William Curbean has filed this motion under 28 U.S.C. §2255. He alleges that his counsel was ineffective because (1) counsel did not properly contest his designation as a career offender, (2) did not collaterally attack his prior state court convictions, and (3) promised him that he would receive a sentence of five years. Because of these errors, Curbean allegedly did not make a knowing decision to enter a guilty plea.

Curbean's motion is entirely without merit. He agreed in the plea agreement to which he entered that he was a career offender. His acknowledgement of his status was clearly proper in light of the fact that he has four prior drug convictions. He has proffered absolutely no evidence to suggest that if his convictions had been collaterally attacked, the collateral attack would have been successful. During the Rule 11 colloquy, the court went over the terms of the plea agreement with Curbean, including the provision stating that he was a career offender. Moreover, although the plea agreement provided that Curbean could argue for a reduction of his criminal history category for overrepresentation and could seek a reduction of his sentence under "any Section 3553(a) factor," during the Rule 11 colloquy the court stated expressly that "I am duty bound to sentence you according to the facts as I find them to be independently, and independently exercising my discretion." Transcript at 10. There is no basis for finding that

Curbean's counsel was ineffective or that he did not knowingly enter into the guilty plea.

A separate order denying Curbean's motion is being entered herewith.

Date: August 17, 2012

/s/
J. Frederick Motz
United States District Judge